

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(Danville Division)

APR 19 2021

JULIA C. DUDLEY, CLERK
BY: *AMcDonnell*
DEPUTY CLERK

TYLER SPENCER
Plaintiff,

v.

TURNER FURNITURE HOLDING
CORP. d/b/a ASHLEY FURNITURE,
HOMESTORE and/or d/b/a
ASHLEY FURNITURE INDUSTRIES,
ET AL,
Defendants.

Civil Action No.: 4:21CV00020

NOTICE OF REMOVAL

Defendants TURNER FURNITURE HOLDING CORP., d/b/a ASHLEY FURNITURE HOMESTORE, PHIL RELEFORD, and BURNICE PARKER ("Defendants"), by and through counsel, hereby gives notice of removal of the above action from the Circuit Court of the County of Patrick, Virginia ("Circuit Court"), to the United States District Court for the Western District of Virginia, Danville Division, pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446. As set forth below, this Court has original diversity jurisdiction over this action pursuant to Section 28 U.S.C. § 1332. All requirements for removal of this action are met through the allegations contained in the pleadings filed in the Circuit Court and in this Notice of Removal.

In support of this Notice of Removal, the Defendants state as follows:

Background

1. There is pending in the Circuit Court of the County of Patrick, Virginia, a Complaint styled Tyler Spencer v. Turner Furniture Holding Corp. d/b/a Ashley Furniture Homestore and/or d/b/a Ashley Furniture Industries, et al, Case No. CL21-32 (the "State Court Action"). The

Complaint in the State Court Action was filed on or about January 13, 2021. A copy of the Complaint is attached hereto as **Exhibit A**.

2. That Turner Furniture of North Carolina, LLC, Ashley Distribution Services, Holdings, Inc., Ashley Distribution Services, Ltd., Ashley Homestores, Ltd., and Ashley Homestores Holdings, Inc., originally party defendants, were dismissed from the State Court Action pursuant to voluntary non-suit taken by the plaintiff. A copy of the Non-Suit order is attached hereto as **Exhibit B**. The only remaining defendants at the time of filing this notice are Turner Furniture Holding Corp. d/b/a Ashley Furniture Homestores, Phil Releford and Burnice Parker

3. The defendants have voluntarily accepted service of the Complaint. See **Exhibit A**. The defendant filed an Answer to plaintiff's Complaint on or about April 16, 2021. A copy of the Answer is attached hereto as **Exhibit C**.

4. There have been no further proceedings in the State Court Action.

Requirements for Removal

5. This Notice of Removal is filed within thirty days upon which Defendants were first served with a copy of the Complaint and is therefore timely pursuant to 29 U.S.C. § 1446(b).

6. Defendants are informed and believe that plaintiff, Tyler Spencer, is an individual residing in the Commonwealth of Virginia. See **Exhibit A** at Para. 1.

7. The Defendants have informed undersigned counsel that they consent to the removal of this action to federal court.

8. The State Court Action is properly removed under 28 U.S.C. § 1441(a), because the State Court Action is subject to the original jurisdiction of this Court pursuant to 28 U.S.C. § 1332, as explained below.

9. Plaintiff is a citizen of the Commonwealth of Virginia. The Complaint alleges he is a resident of Virginia and Defendants' investigation has failed to identify any facts indicating Plaintiff could be a citizen of any other state. The Defendant, therefore, alleges that Plaintiff is a citizen of Virginia.

10. Defendant Turner Furniture Holding Cop. is incorporated under the laws of the State of Florida and has its principal place of business in Georgia. Defendant is, therefore, a citizen of the State of Florida and the State of Georgia.

11. Defendant Phil Releford is a resident and citizen of the state of North Carolina.

12. Defendant Burnice Parker is a resident and citizen of the state of North Carolina.

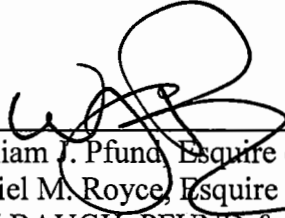
13. Complete diversity of citizenship exists between Plaintiff, who is a citizen of Virginia, and the Defendants, which are citizens of Georgia and North Carolina.

14. Plaintiff's Complaint seeks damages from Defendant in the amount of \$9,000,000 in compensatory damages. See Ex. A, Compl., at pg. 15. This satisfies the requirements for this Court's jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332.

15. This action is properly removed from the State Court to this Court on grounds of diversity jurisdiction because (a) complete diversity of citizenship exists between Plaintiff and Defendant, and (b) the amount in controversy herein exceeds the sum or value of \$75,000, exclusive of interest and costs.

16. Written notice of the filing of this Notice of Removal will promptly be given to plaintiff and the Clerk of the Circuit Court of the County of Patrick, Virginia, as required by 28 U.S.C. § 1446(d).

WHEREFORE, the defendants, TURNER FURNITURE HOLDING CORP., d/b/a ASHLEY FURNITURE HOMESTORE, PHIL RELEFORD, and BURNICE PARKER respectfully request that this case proceed before this Court as an action properly removed.



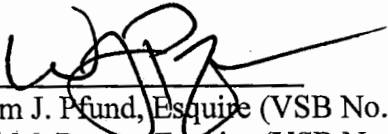
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Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing Notice of Removal was mailed, first class, postage prepaid, this 16th day of April, 2021 to:

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